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In re Application of
Nakagawara et al.
Application No. 10/570,346
PCT No.: PCT/JP04/12955
Int. Filing Date: 06 September 2004
Priority Date: 05 September 2003
Atty. Docket No.:738888083
For: Agent For Prevention And/Or
Treatment Of Alzheimer's Disease

DECISION

This is in response to the "Response To Decision Dated 14 November 2006 (PCT Branch)," filed on 10 January 2007.

DISCUSSION

In a Decision mailed on 14 November 2006, the "Response..." filed on 30 June 2006 was treated, and the declaration filed on 06 June 2006 was not accepted, without prejudice, because

Applicants refer to the executed declaration filed on 06 June 2006, which was filed prior to the mailing of Form PCT/DO/EO/905 on 27 June 2006. However, inspection of the declaration filed on 06 June 2006 reveals that the second-named inventor is "Toshinori OZAKI," whereas the published international application instead nominates "OZAKI, Toshifumi." To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. *See MPEP § 605.04(b) and MPEP § 201.03(b).* In the absence of a grantable petition under 37 CFR 1.182 (or other acceptable response such as evidence of the recording of a change pursuant to PCT Rule 92bis), it would not be appropriate to accept the declaration at this time.

In response, applicants state that "the second-named inventor is properly named as Toshinori Ozaki," and that "Any mistake resulted from mis-interpretation or transliteration from the Japanese/Chinese characters for the second-named inventor when filing the PCT application, and the transliterated name was not discovered until the National Phase Applications, specifically this U.S. National Phase Application, was being prepared." Counsel refers to the accompanying "Declaration of Shigeo Ota" and "Declaration of Toshinori Ozaki" to support this position.

The "Declaration of Toshinori Ozaki" states in part that it "is my understanding that the characters in the Japanese language for my first name can be mis-read or transliterated as Toshifumi instead of Toshinori," that "I am the same individual identified as Toshifumi Ozaki on PCT application PCT/JP2004/012955...," that "I discovered that there was a mistake in my first name in the PCT application in 2006 when I was asked to review application papers, which

included an Oath and Declaration for this U.S. application,” and that “I had no deceptive intention and acted in good faith when I signed and dated the Oath and Declaration for this U.S. Application.” Meanwhile, the “Declaration of Shigeo Ota” describes the circumstances under which the discrepancy arose, indicating in part that “In the Japanese language the characters for inventor Mr. Ozaki’s first name could be transliterated as Toshifumi or Toshinori, but in general should ordinarily be read as Toshifumi.” Based on the totality of the evidence presently of record, it would be appropriate to conclude that the discrepancy in Mr. Ozaki’s first name resulted from a mere transliteration error, and that the name “Toshinori” appearing on the declaration filed on 06 June 2006 is correct. As such, the declaration filed on 06 June 2006 is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

It is noted that the English translation of the international application, filed on 03 March 2006, is defective because each sheet of drawings in the translation includes text (in the top margin) which is not included in the respective sheet of drawings in the published international application.

CONCLUSION

The declaration filed on 06 June 2006 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **06 June 2006**.



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